

Michele Eber, Esq.
Nevada Bar No. 2696
GOFF DOUGLAS and EBER, PC
2831 St. Rose Pkwy., # 225
Henderson, NV 89052
Telephone: (702) 818-1140
Facsimile: (702) 818-1141
michele@kgofflaw.com

E-filed: Oct. 29, 2009

Attorneys for Debtor

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

KIRK HUGHES DEVELOPMENT, LLC,

Debtor.

Chapter 11

Case No. 09-15153-mkn

**MOTION FOR ORDER AUTHORIZING GOFF,
DOUGLAS and EBER, PC, TO WITHDRAW
AS COUNSEL OF RECORD FOR DEBTOR IN
POSSESSION**

Date of Hearing: OST Pending

Time of Hearing: OST Pending

Michele Eber, Esq., and the law firm of Goff Douglas and Eber PC ("GDE"), hereby respectfully request an order from this Court, pursuant to Local Bankruptcy Rule 2014(b) and Local District Court Rule 1A-10-6, authorizing GDE's immediate withdrawal as counsel for Debtor, Kirk-Hughes Development, LLC. This Motion is made and based upon the following Memorandum of Points and Authorities, and the pleadings and papers on file herein.

MEMORANDUM OF POINTS AND AUTHORITIES

I.

STATEMENT OF FACTS

On April 6, 2009, the Debtor filed its petition for relief under chapter 11 of the Bankruptcy Code. Debtor operates its business as a debtor-in-possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code.

The Debtor originally filed an application to employ the law firm of Kirk-Hughes & Associates as its counsel. That application was denied by an order of this Court dated July 11, 2009, on the grounds that Kirk-Hughes & Associates was not “disinterested” as defined by Bankruptcy Code § 101(14) and thus not eligible to serve as counsel for the Debtor under Code § 327(a).

On August 25, 2009, Debtor filed an application to retain and employ Michele Eber, Esq., and Goff Douglas and Eber, PC, (“GDE”), as counsel. That application was heard and granted by this Court on September 9, 2009.

The relationship between GDE and Debtor has substantially deteriorated, and has given rise to a possible conflict of interest between counsel and the Debtor. On October 23, 2009, the Debtor filed an application to employ Timothy S. Cory & Associates, which is scheduled for hearing on November 25, 2009. However, in light of the existing difficulties between the Debtor and GDE, it has become necessary for GDE to request an order from this Court authorizing its immediate withdrawal as counsel of record for the Debtor.

II.

LEGAL ARGUMENT.

A. “Good Cause “ Exists for the Withdrawal of GDE as Counsel of Record

Pursuant to Local Bankruptcy Rule 2014(a), an attorney who appears in a case on behalf of a party is the attorney of record for the party “until an order is entered permitting the withdrawal of the attorney or the case is closed or dismissed.” Subsection (b) of Rule 2014 states that the withdrawal of an attorney of record in a bankruptcy case is governed by Local Rule IA 10-6 of the Local Rules of Practice for the United States District Court for the District of Nevada which provides that; “No attorney may withdraw after appearing in a case *except by leave of court after notice served on the affected client and opposing counsel.*” (emphasis added).

Nevada Rule Of Professional Conduct 1.16. (b)(7) permits a lawyer to withdraw from representing a client when “good cause for withdrawal exists.” GDE submits that that the circumstances existing herein constitute “good cause” for withdrawal. It is further submitted that GDE’s withdrawal can be accomplished without adversely affecting the Debtor since the Debtor is no longer utilizing the services of GDE.

For the foregoing reasons, it is respectfully requested that this Court issue an order authorizing GDE’s withdrawal as counsel of record for the Debtor as soon as is practicable.

DATED: October 29, 2009

GOFF, DOUGLAS and EBER, PC

By: /s/ Michele Eber

Michele Eber, Esq.
Nevada Bar No. 2696
2831 St. Rose Pkwy., Suite 225
Henderson, NV 89052
(702) 818-1140